

s.n. 10/622,582

Page 29

**REMARKS****Double Patenting**

Claims 26-27, 29, 32-34, 37, 43-44, 146, 151, 152, 155-158, 162 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 19, 27, 31, 39, 40, 42, 43 of co-pending Application No. 10/346,125. Please note that co-pending Application No. 10/346,125 issued on May 17, 2005 as U.S. Patent No. 6,892,829.

Applicant encloses hereto for filing both an executed Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending "Reference" Application (U.S. Application No. 10/346,125) and an executed Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent (U.S. 6,892,829). As previously indicated, U.S. Application No. 10/346,125, now U.S. Patent No. 6,892,829, and the present application are commonly owned.

Claims 26-41, 43-51, 98, 100-119, 121-148, 150, 152, 154, 156-157, and 159-162 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8, 14-21, 23, 28, 30-46, 51-54, and 64 of U.S. Patent No. 6,854,534. Applicant encloses hereto an executed Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent (U.S. 6,854,534). As previously noted, U.S. Patent No. 6,854,534 and the present application are commonly owned.

**Claims Rejections – 35 USC § 102**

1. Claims 1, 5-8, 15, 18 and 22 were rejected under 35 U.S.C. 102(b) as being anticipated by Hooper (U.S. 4,534,426). Such rejection is traversed for the reasons now following.

Independent method claim 1 has been amended to include the limitation in claim 10, namely, the removal of material and medium by means of a suctioning means in operable communication with the other of the said inner space and said outer space. Hooper does not disclose removal of clean out medium and material by a suctioning means. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject

s.n. 10/622,582

Page 30

Matter" that claim 10 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. Hence, it is respectfully submitted that amended claim 1, which includes the limitations of previously presented claims 1 and 10, is not anticipated by Hooper.

With respect to claims 5-8, 18 and 22, these claims are now dependent on amended claim 1 and thus are also not anticipated by Hooper.

Claim 15 has been amended to include all of the limitations of the previously presented base claim 1 and the limitation in claim 16, namely, providing a reciprocating clean out tool. Claim 16 has been canceled. Hooper does not disclose a reciprocating clean out tool. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 16 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 15, which includes the limitations of previously presented claims 1, 15 and 16, is not anticipated by Hooper.

Favorable reconsideration of claims 1, 5-8, 15, 18 and 22 is respectfully requested.

2. Claims 52, 56-59, 61, 68, 75-76, 78-79, 81 and 86 were rejected under 35 U.S.C. 102(b) as being anticipated by Sewell (U.S. 2,537,605). Such rejection is traversed for the reasons now following.

Independent method claim 52 has been amended to include the limitation in claim 54. Claim 54 has been canceled. In particular, claim 52 now includes the step of introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Sewell does not disclose introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 54 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 52, which includes the limitations of previously presented claims 52 and 54, is not anticipated by Sewell.

s.n. 10/622,582

Page 31

With respect to claims 56-59, and 61, these claims are now dependent on amended claim 52 and thus are also not anticipated by Sewell.

With respect to claim 68, claim 68 has been amended to include the limitations in the previously presented base claim 52 and the limitation in claims 69. Claim 69 has been canceled. In particular, claim 68 now includes the step of providing a reciprocating clean out tool at or near the bottom of said production tubing string for disturbing said material in said well bore. Sewell does not disclose providing a reciprocating clean out tool at or near the bottom of said production tubing string for disturbing said material in said well bore. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 69 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 68, which includes the limitations in previously presented claims 52, 68 and 69, is not anticipated by Sewell.

Independent apparatus claim 75 has been amended to include the limitations in claims 86 and 87. Claims 86 and 87 have been canceled. In particular, claim 75 now includes a reciprocating clean out tool. Sewell does not disclose a reciprocating clean out tool. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 87 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 75, which includes the limitations of previously presented claims 75, 86 and 87, is not anticipated by Sewell.

With respect to claims 76, 78-79, 81 and 86, as mentioned, claim 86 has been canceled. All the rest are now dependent on amended claim 75 and thus are also not anticipated by Sewell.

Favorable reconsideration of claims 52, 56-59, 61, 68, 75-76, 78-79, and 81 is respectfully requested.

3. Claims 52, 59, 75, and 81 were rejected under 35 U.S.C. 102(b) as being anticipated by Muncy (U.S. 2,167,393). Such rejection is traversed for the reasons now following.

Independent method claim 52 has been amended to include the limitation in claim 54. Claim 54 has been canceled. In particular, claim 52 now includes the step of introducing the

s.n. 10/622,582

Page 32

pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Muncy does not disclose introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 54 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 52, which includes the limitations of previously presented claims 52 and 54, is not anticipated by Muncy.

With respect to claim 59, this claim is now dependent on amended claim 52 and thus is also not anticipated by Muncy.

Independent apparatus claim 75 has been amended to include the limitations in claims 86 and 87. Claims 86 and 87 have been canceled. In particular, claim 75 now includes a reciprocating clean out tool. Muncy does not disclose a reciprocating clean out tool. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 87 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. It is respectfully submitted that amended claim 75, which includes the limitations of previously presented claims 75, 86 and 87, is not anticipated by Muncy.

With respect to claim 81, claim 81 is now dependent on amended claim 75 and thus is also not anticipated by Muncy.

Favorable reconsideration of claims 52, 59, 75, and 81 is respectfully requested.

#### Claim Rejections - 35 U.S.C. 103

4. Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over Hooper '426. Such rejection is traversed for the reasons now following.

Claim 25 now depends on amended claim 1, which now includes the step of removal of material and medium by means of a suctioning means in operable communication with the other of the said inner space and said outer space. Hooper does not disclose removal of clean out medium and material by a suctioning means. Thus, claim 25, which now includes the step of

s.n. 10/622,582

Page 33

removal by a suctioning means and a well bore comprising perforated casing, would not be obvious over Hooper.

Favorable reconsideration of claim 25 is respectfully requested.

5. Claim 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell '605. Such rejection is traversed for the reasons now following.

Claim 53 now depends on amended claim 52, which now includes the step of introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Sewell does not disclose introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Thus, claim 53, which now includes the step of introducing pressurized clean out medium at a pressure equal to or below that of the formation and a well bore comprising perforated casing, would not be obvious over Sewell.

Favorable reconsideration of claim 53 is respectfully requested.

6. Claims 55 and 77 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell '605. Such rejection is traversed for the reasons now following.

Claim 55 now depends on amended claim 52, which now includes the step of introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Sewell does not disclose introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Thus, claim 55, which now includes the step of introducing pressurized clean out medium at a pressure equal to or below that of the formation and a coiled tubing string, would not be obvious over Sewell.

Claim 77 now depends on amended claim 75, which now includes a reciprocating clean out tool. Sewell does not disclose a reciprocating clean out tool. Thus, claim 77, which now includes a reciprocating clean out tool and a coiled tubing string, would not be obvious over Sewell.

Claim 91 has been canceled.

Favorable reconsideration of claims 55 and 77 is respectfully requested.

s.n. 10/622,582

Page 34

7. Claims 63-64 and 82 were rejected under 35 U.S.C. 103(a) as being unpatentable over Muncy '393 in view of Sinclair ('515). Such rejection is traversed for the reasons now following.

Claims 63-64 now depend on method claim 52, which now includes the step of introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Neither Muncy nor Sinclair discloses introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Thus, claims 63-64, which now include the step of introducing pressurized clean out medium at a pressure equal to or below that of the formation would not be obvious over Muncy in view of Sinclair. Hence, combining Muncy with Sinclair would not result in the invention as claimed in claims 63-64.

Claim 82 now depends on amended claim 75, which now includes a reciprocating clean out tool. Neither Muncy nor Sinclair discloses a reciprocating clean out tool. Thus, claim 82, which now includes a reciprocating clean out tool, would not be obvious over Muncy in view of Sinclair. Hence, combining Muncy with Sinclair would not result in the invention as claimed in claim 82.

Favorable reconsideration of claims 63-64 and 82 is respectfully requested

8. Claims 62 and 80 were rejected under 35 U.S.C. 103(a) as being unpatentable over Muncy ('393) in view of McQueen ('090). Such rejection is traversed for the reasons now following.

Claim 62 now depends on method claim 52, which now includes the step of introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Neither Muncy nor McQueen discloses introducing the pressurized clean out medium at a pressure substantially equal to or below the pressure of the formation. Thus, claim 62, which now include the step of introducing pressurized clean out medium at a pressure equal to or below that of the formation would not be obvious over Muncy in view of McQueen. Hence, combining Muncy with McQueen would not result in the invention as claimed in claim 62. Favorable reconsideration is respectfully requested.

s.n. 10/622,582

Page 35

Claim 80 now depends on amended claim 75, which now includes a reciprocating clean out tool. Neither Muncy nor McQueen discloses a reciprocating clean out tool. Thus, claim 80, which now includes a reciprocating clean out tool, would not be obvious over Muncy in view of McQueen. Hence, combining Muncy with McQueen would not result in the invention as claimed in claim 80.

Favorable reconsideration of claims 62 and 80 is respectfully requested

Other Claim Amendments

Claim 19 has been amended to include all of the limitations of the previously presented base claim 1 and the limitation in claim 19, namely, introducing pressurized clean out fluid through the inner space and removing same through the outer annulus. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 19 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. Allowance of amended claim 19 is respectfully requested.

Claim 23 has been amended to include all of the limitations of the previously presented base claim 1 and the limitation in claim 23, namely, providing a shroud means. Examiner has indicated in the Office Action of October 11, 2005 under the heading "Allowable Subject Matter" that claim 23 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claim. Allowance of amended claim 23 is respectfully requested.

s.n. 10/622,582

Page 36

In view of the arguments presented by Applicant herein, Applicant submits that the claims of the present application are in a condition for allowance and such allowance is respectfully requested.

Respectfully submitted,



Irene Bridger  
Registration No. 53,914

Dated: Feb 13, 2006

Bennett Jones LLP  
4500 Bankers Hall East  
855 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7  
(403) 298-3661